
Arbitration

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The Office of Arbitration Services manages the resolution by arbitration of grievance disputes over existing collective bargaining agreements per statutory authority under “Section 3” of the Railway Labor Act (RLA). The RLA provides for both Grievance Arbitration and Interest Arbitration.

Arbitration Overview

Grievance Arbitration Grievance Arbitration is a process for resolving disputes regarding the interpretation or application of an existing collective bargaining agreement. Grievances, known as “minor disputes” under the RLA, must be handled through Grievance Arbitration if not otherwise resolved, and cannot be used by the parties to trigger self-help actions.

The NMB has significant administrative responsibilities for the three types of grievance arbitration in the railroad industry. These types include those of the National Railroad Adjustment Board as well as arbitration panels established directly by the labor-management parties at each railroad: Public Law Boards and Special Boards of Adjustment. Grievance Arbitration in the airline industry is accomplished at the various System Boards of Adjustment created jointly by labor and management at the parties’ expense.

The NMB furnishes panels of prospective arbitrators for the parties’ selection in both the airline and railroad industries. [A request to be placed on the NMB Roster of Arbitrators may be obtained from the Board’s web site at www.nmb.gov. See Forms on the Documents page.] The NMB also has substantial financial responsibilities for railroad arbitration proceedings in

that it pays the salaries and travel expenses of the arbitrators. Grievance Arbitration decisions under the RLA are final and binding with very limited grounds for judicial review.

Interest Arbitration Interest Arbitration is a process to establish the terms of a new or modified collective bargaining agreement through arbitration, rather than through negotiations. Although the RLA provides an effective process for Interest Arbitration, its use is not statutorily required.

The NMB offers the parties the opportunity to use binding Interest Arbitration when the Agency has determined that further Mediation efforts will not be successful. In addition, the parties may directly agree to resolve their collective bargaining dispute or portions of their dispute through Interest Arbitration.

The NMB generally provides the parties with panels of potential arbitrators from which they select an individual to resolve their dispute; in some instances however, the parties agree to allow the NMB to directly appoint an arbitrator. Interest Arbitration decisions are final and binding with very narrow grounds for judicial appeal.

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Arbitration Highlights

The Office of Arbitration Services has directed its attention to promoting a more efficient Section-3 process, thereby fostering faster resolution of minor disputes (grievances). The NMB made a well-received move in this regard during FY 2011 by targeting the backlog of grievance arbitration cases for resolution and increasing the number of arbitrators available to hear and decide cases. Grievance Mediation was also actively promoted as an alternative to arbitration.

The number of cases pending at the end of this fiscal year – 2,384 cases – is the new lowest in NMB history. During FY 2011, the parties brought 3,908 cases to arbitration compared to 4,381 cases in FY 2010. In FY 2011, 4,294 cases were closed compared to 5,648 in FY 2010, leaving only 2,384 cases pending at the end of FY 2011.

The NMB Arbitration program completed its efforts to modernize with the new case management system at the National Railroad Adjustment Board (NRAB). Document and records management was modernized at the NRAB with the conversion of all records to an electronic system. The use of online dispute resolution was also successfully promoted at the NRAB.

On several occasions during the fiscal year, the Agency met with representatives from the labor organizations and carriers to review its caseload. Carriers included Canadian National Railroad, Norfolk Southern Corporation, Union Pacific Railroad and CSX Transportation. The Office of Arbitration Services met with all of the labor organizations representing employees in the railroad industry. NMB efforts have been directed to facilitating a more efficient Section 3 process, thereby reducing the backlog and promoting the RLA objective of prompt resolution of minor disputes.

During FY 2011, the NMB continued its efforts designed to improve the arbitration of grievances under Section 3 of the Railway Labor Act. The Board had five ambitious goals for this transformation: (1) to ensure that the parties receive timely and outstanding arbitration services from the Board's staff and its contract arbitrators; (2) to ensure that the Board uses e-business

capabilities to the maximum extent possible; (3) to ensure that Board procedures are improved through a rulemaking process involving public input; (4) to ensure that arbitrators schedule, hear, and decide cases in a timely manner; and (5) to ensure that NMB resources are used wisely and in accordance with Federal regulations and sound accounting practices.

Annual Case Audit In June 2011, the NMB conducted an intensive audit of all cases pending before public law boards and special boards of adjustment. The Agency provided the Class-I freight railroads, commuter railroads, regional railroads and all labor organizations representing railroad employees with a list of cases pending on these boards. The NMB asked the parties to report any discrepancies between their records and the Agency's list. The audit was conducted electronically. The feedback from the audit enhanced the accuracy of the NMB case management system.

Alternative Dispute Resolution in the Railroad Industry The NMB actively promoted grievance mediation as an alternative means of dealing with grievances in the railroad industry by reaching out to the largest Class-I freight carriers and the labor organizations. During FY 2011, Arbitration Services made presentations at Canadian National, the United Transportation Union and the IAM&AW promoting grievance mediation as a means of resolving disputes. The NMB anticipates continuing this initiative during FY 2012.

Increasing Arbitrator Productivity The NMB continued its efforts to increase arbitrator productivity through rigorous enforcement of the six-month rule. Arbitrators who have not issued a decision within six months of a hearing are contacted monthly and encouraged to issue those decisions. Consequently, approximately 85% of all decisions are rendered within six months of the hearing.

The Agency improved its already successful program of using the NMB website as a source for many of the forms and documents needed by arbitrators and the parties. The NMB used the website to keep the parties and the public informed regarding Section 3 activities. Arbitrators, parties, and the public use its website to

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obtain information and forms instantaneously. Last year, the agency developed an Arbitrators' Caseload Report and posted a link to the Report on the NMB website. This year the NMB placed an NRAB Open Case Report on the website. This report lists all of the open cases at the NRAB. With this report and the Arbitrators' Caseload Report, the NMB's entire Section 3 caseload is now available on the NMB website.

Aged Cases In March 2011 like last year, the Board conducted a review of all open cases on public law boards and special boards of adjustment which are five years and older. The Board worked with the parties to obtain the status of the cases and to encourage the parties to either settle the cases or schedule the cases for hearing. As a result, the Board was able to close the overwhelming majority of the cases and have the remaining few scheduled for hearings. With the exception of the few scheduled for hearings, the Board was able to clear its records of all cases over five years.

The Board contacted the NRAB to obtain the status of their cases over five years. This project is ongoing and will lead to the reduction of the old cases at the NRAB in fiscal year 2012.

Pay Per-case Project The NMB expanded a project in which arbitrators were paid on a per-case basis, instead of the normal per-day compensation. The project will be evaluated during the next fiscal year.

Case Backlog The National Mediation Board used the increase in Section 3 funding to further reduce the backlog of cases. The backlog of 5,551 cases that existed at the beginning of Fiscal Year 2008, has been reduced to approximately 226 cases.

Knowledge Store This year the NMB expanded its use of technology at the NRAB. All NRAB awards are entered into the Knowledge Store at the same time that they are electronically distributed to the parties. Thus awards are received by the parties in some instances, within 24 hours after they have been adopted by the NRAB.

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Arbitration Cases

The following chart reflects the actual case numbers for FY 2011 and FY 2010 and a five-year average.

START-PENDING



NEW CASES



CLOSED CASES



END-PENDING

